

Navajo Nation EPA Water Quality
Emergency 401 Certification Procedures

An “*emergency situation*” is present where there is a clear, sudden, unexpected, and imminent threat to life or property demanding immediate action to prevent or mitigate loss of, or damage to, life, health, property or essential public services (ex. A situation that could potentially result in an unacceptable hazard to life or a significant loss of property if corrective action requiring a permit is not undertaken immediately).

Emergency 401 authorizes discharges of dredge or fill material into Waters of the United States, including wetlands, or work or structures in significant nexus waterways/tributaries for the necessary repairs and protection measures associated with an emergency situation. This *emergency 401* cannot be used to authorize long-planned-for projects, nor shall it be used for projects which are likely to have been known to the applicant 30-days or more prior for which an application was not submitted in a efficient manner. The *emergency 401* must be utilized for the area directly impacted by the emergency situation, the *emergency 401* will not be permitted to correct for misrepresentation or failure to disclose fully all relevant facts or findings.

Requirements to verify an Emergency:

- A) The applicant must notify Navajo Nation EPA Water Quality 401 Coordinator by email, leeanna.martinez09@yahoo.com or business phone (928) 871-7700 or business cell phone as early as possible.
- B) Photographic documentation must be captured at the time of the emergency event to verify the conditions of the emergency situation.
- C) Any work authorized by this *emergency 401* should be the minimum necessary to alleviate the immediate emergency.
- D) Information to be included in email; should include:
 1. Applicant’s name, agency name, address, telephone number, and contact information for the lead contact for the emergency project.
 2. A written description of the details of the proposed project.
 - a. The purpose and need
 - b. Photographic documentation of the emergency activity
 - c. The date of the known emergency and the date the applicant plans on correcting the emergency situation
 - d. Quantity of material dredged and filled, along with type of material to be excavated or filled (this includes temporary material) [Cubic Yards]
 - e. Name of waterway to be impacted , if unknown indicate GPS coordinates, along w/local town/location name of the area
 - f. Navajo Nation Chapter(s) affected
 - g. Scope of work, giving details of the corrective action to take place for the emergency repair that will take place within the waterway.
 3. Include a topo map of the area impacted indicating the exact location of the emergency.

- E) The applicant must notify the appropriate US Army Corps of Engineers' District, along with the Navajo Nation Fish and Wildlife and Navajo Nation Historic Preservation.

After the applicant has submitted notification for the *emergency 401* to the Navajo Nation EPA Water Quality 401 Coordinator, the emergency situation has been completed with the emergency work needed. The applicant must apply for a "after the fact" official 401 Certification from Navajo Nation EPA Water Quality (application can be found on www.navajonationepa.org) within 30 business days of the date of emergency.

Should the applicant fail to do so with all necessary procedures for an *emergency 401* Navajo Nation EPA Water Quality Program will adhere to recovery of civil penalties of not less than \$500 and not more than \$25,000 per day per violation.